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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/657,885 | 09/09/2003 | Michael L. Dobson | DOBS/0001 | 2624 |
| 24945 | 7590 | 11/18/2005 | EXAMINER | |
| STREETS & STEELE 13831 NORTHWEST FREEWAY SUITE 355 HOUSTON, TX 77040 | | | OSELE, MARK A | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1734 | |

DATE MAILED: 11/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/657,885 | DOBSON, MICHAEL L. | |
| | Examiner | Art Unit | |
| | Mark A. Osele | 1734 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 12-22 and 24-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 12-22, 24-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6, 9, 12-20, 24-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Edwards et al. Edwards et al. shows an apparatus and method for applying a tape from a roll to a surface comprising: a frame, 56, 60, for rotatably supporting a roll, 53, of material, 54, the frame having an opening (between 71, and 131) through which material may be dispensed from the roll but being incapable of conveying wall board compound; a roller, 80, carried by the frame adjacent the opening for pressing material against a surface; a brake, 131, supported by the frame for applying a braking force to a roll of material thereby preventing material from being dispensed through the opening; an elongated tubular handle, 51, 110, connected to the frame; an actuator for remotely actuating the brake wherein the actuator comprises a lever, 161, connected to the elongated handle opposite the frame and a cable linkage, 114, extending through a substantial portion of the elongated handle and connecting the lever to the brake (column 6, lines 9-15, 21-24, 29-53; column 7, lines 1-29). It appears from Figure 1 that the actuator is approximately three feet or further from the brake and cutter.

Regarding claims 2-3, 13, 16, 17, and 27 Edwards et al. further shows a cutting member, 100, pivotally mounted to the frame for rotation of the cutting edge into engagement with the material dispensed through the opening (See Figs. 14-15). The cutting member rotates in response to movement of the actuator via the linkage.

Regarding claims 4-6 and 18-20 Edwards et al. further shows parallel side walls, 56, 166, for supporting a shaft, 55, for rotatably supporting a roll of material and defining a space for material to move from a roll to the opening for dispensing.

Regarding claim 31, Edwards et al. teaches that the method of using the apparatus applies tape to the seam between abutting sheets of wall board (column 1, lines 11-31).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edwards et al. in view of Shi (US 5,236,540).

As to Claim 7, the references as combined do not disclose an apparatus wherein the frame includes a lip adjacent the opening that is yieldably biased toward the roller. Shi discloses an apparatus for applying a material (Figure 4, tape 93) from a roll to a

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surface which includes a frame (Figure 4, frame 10) having a lip (Figure 4, panel 42) adjacent an opening that is yieldably biased towards a roller (Figure 4, roller 21) for assuring at least a portion of material fed to the opening from the roll rotatably supported by the frame remains at the opening. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of Edwards et al. to include a lip adjacent the opening that is yieldably biased toward the roller as suggested by Shi to ensure that the material is retained in a position required for effective dispensing.

5. Claims 8 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edwards et al. in view of Thompson et al. (US 5,792,310).

As to Claim 8, the references as combined do not disclose an apparatus wherein the brake applies a braking force to a side of a roll of material rotatably supported by the frame. It is well known and conventional in the tape dispenser art, as disclosed by Thompson et al. (Figure 1, brake element 48), to provide a brake which applies a braking force to a side of a roll of tape rotatably supported by the frame to control the dispensation of the tape. It would have been readily apparent to one of ordinary skill in the art that a braking element which acts on the side of the tape roll is functionally equivalent to a braking element which acts on the tape subsequent to its separation from the roll. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of Edwards et al. to include a braking element which applies braking force to a side of a roll of material rotatably supported by the

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frame as suggested by Thompson et al. to control the dispensation of the material; a braking element acting on the side of the tape roll being functionally equivalent to a braking element which acts on the tape subsequent to its separation from the roll.

Conclusion

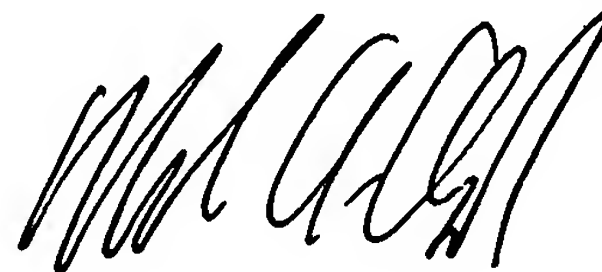
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sweeny, Jungklaus, and Boucher each show tape applicators.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Osele whose telephone number is 571-272-1235. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Fiorilla can be reached on 571-272-1187. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MARK A. OSELE
PRIMARY EXAMINER

November 14, 2005